IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7774 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMASWAMY NATRAJAN

Versus

STATE OF GUJARAT

Appearance:

MR PRADEEP P BHATT for Petitioners (absent)

MR RC KODEKAR, AGP for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 07/07/2000

ORAL JUDGEMENT

By means of filing this petition under Article 226 of the Constitution, the petitioners have prayed to issue a writ of mandamus or any other appropriate writ, order or direction to restrain the respondents from

evicting the petitioners from their kachcha huts situated in Bal Udyan, Sector-28, Gandhinagar. The petitioners have also prayed to restrain the respondents, their agents and servants from demolishing the kachcha huts of the petitioners constructed in Bal Udyan, Sector-28, Gandhinagar.

2. According to the petitioners, they are labourers and have migrated to Gujarat State from distant States like Tamil Nadu etc. in search of livelihood. The case of the petitioners is that they joined service of the respondents as daily wagers in 1974 and were given the work of maintenance of railway track of children's mini-train in Bal Udyan situated in Sector-28, Gandhinagar. They have claimed that they were also given Identity Cards. According to them, they have no mooring in the State of Gujarat and as the respondents could not provide residential facilities to them, they were allowed to construct kachcha huts on the secluded piece of land in the garden. The case of the petitioners is that the area where they are allowed to construct kachcha huts is fenced so that the kachcha huts may not cause hindrance to the visitors or any one. What is claimed in the petition is that they were orally directed by the supervisor incharge of the garden to vacate the premises. Under the circumstances, the petitioners have filed present petition and claimed reliefs to which reference is made earlier.

3. When the matter was called out for final hearing, Mr. R.C.Kodekar, learned A.G.P. was directed to ascertain the facts and place the case of the respondents before the Court. Mr.R.C.Kodekar, learned A.G.P. has produced a photostat copy of panchnama dated July 1, 2000 drawn by the Mamlatdar (Encroachment) and Circle Officer (Encroachment) along with other documents. The panchnama with documents is ordered to be taken on record of the case. It indicates that at present kachcha hut constructed is not occupied by any one and is vacant. The contents of the panchnama read with copy of register signed by Deputy Executive Engineer, Capital Project, Sub-Division-I shows that petitioners no.2 to 8 and 10 are in government service and are occupying the quarters allotted to them. It further indicates that petitioner no.1 has expired and the quarter allotted to him is now occupied by his widow. On the instructions of the officers, who are present in the Court, Mr. R.C.Kodekar, learned A.G.P. has stated at the Bar that petitioner no.10 i.e. Kanaiyaram Sunderswamy is in service of Public Works Department, but it is not known as to where he is residing.

In view of the contents of panchnama and other documents to which reference is made earlier, I am of the view that the petition has become infructuous and deserves to be disposed of accordingly. Rule is, therefore, discharged with no order as to costs. Interim relief granted earlier, is hereby vacated. The petition stands disposed of as having become infructuous. Liberty is reserved to each petitioner to move the Court in case of necessity.

(J.M.Panchal,J.)
(patel)